

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

IN THE MATTER OF THE APPLICATION)	
OF USA MOBILE COMMUNICATIONS, INC.)	CASE NO.
II FOR AN ORDER AUTHORIZING THE)	89-352
ISSUANCE AND SALE OF SECURITIES)	

O R D E R

This matter arising upon petition of USA Mobile Communications, Inc. II ("USA II") filed November 29, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of an exhibit to its verified application, and it appearing to this Commission as follows:

USA II has applied for authorization to assume obligations in the form and substance of certain loans and to issue to a limited number of accredited investors certain Notes described and defined in Exhibit A to the verified application, which exhibit USA II has petitioned be withheld from public disclosure. A summary of the principal terms of the loans is contained in Exhibit A together with financial and other information concerning USA II and the purchases of the notes.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy the test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is

disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage. The petition filed by USA II does not identify potential competitors and does not demonstrate how disclosure of the information is likely to result in competitive injury. Therefore, the petition cannot be granted.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition by USA II for confidential protection of the information contained in Exhibit A to its verified application shall be held in abeyance to allow USA II to supplement it with a statement identifying its competition and setting forth, with specificity, its reasons for believing that disclosure of the information sought to be protected will cause USA II substantial competitive injury.

2. If such statement is not filed within 10 days, this petition for confidentiality shall, without further Orders herein, be denied.

Done at Frankfort, Kentucky this 8th day of January, 1990.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:

Executive Director